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Pro Per

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION**

SEAN OWENS,

Plaintiff,

V.

EXPERIAN INFORMATION SOLUTIONS, INC.,

EQUIFAX INFORMATION SERVICES, LLC,

**EDUCATIONAL CREDIT
MANAGEMENT
CORPORATION (agent of ECMC
Group).**

Case No. 8:22-cv-01601-FWS-JDEx

JURY TRIAL DEMANDED

Defendants.

RULE 26(f) JOINT CONFERENCE REPORT

Pursuant to Federal Rules of Civil Procedure 26(f) and the Court's October 26, 2022 Order setting the scheduling conference for December 15, 2022, (ECF. #24), the parties met on November 18, 2022 at 2:00pm CST to discuss matters for the Court's information and consideration. In the conference, Sean Owens ("Plaintiff") appeared Pro Se, and the following Defendants were present during the meeting via conference call:

1. Experian Information Solutions, Inc. ("Experian") represented by attorney of record, Kelly Albright,

2. Equifax Information Services, LLC (“Equifax”) represented by attorney of record, Jennifer Brooks, and

3. Educational Credit Management Corporation (“ECMC”) represented by attorney of record, Benjamin West.

In accordance with the Order, the parties state the following:

1. A Brief Factual and Legal Synopsis of the Case.

Plaintiff: This case involves claims of violations under the “Fair Credit Reporting Act” (FCRA), 15 U.S.C. §§1681 et seq., the “Fair Debt Collection Practices Act” (FDCPA), §§1692 et seq., the “Telephone Consumer Protections Act” (TCPA), 47 U.S. Code §§ 227 et seq., and Fed. R. Civ. P. 9(b) et seq. Plaintiff contends Defendants negligently and willfully furnished and reported reaged, inaccurate, erroneous and falsely fabricated information that antedated the plaintiff’s credit reports by more than what lawful limitations allow. Plaintiff is seeking actual damages, punitive damages, costs, reasonable attorney’s fees, and statutory damages for each and every violation, pre-judgment, and post-judgment interest as provided by law, and an order enjoining Defendants from further violations. All prayer for relief is pursuant to relevant statutes as enumerated in Plaintiff’s First Amended Complaint. (See ECF #13, at *22-23).

Defendant Experian: Experian is a consumer reporting agency as that term is defined at 15 U.S.C. § 1681a(f). Experian denies Plaintiff's claims and denies that it has violated the FCRA. At all relevant times, Experian maintained reasonable procedures to assure maximum possible accuracy of its credit reports concerning Plaintiff. Experian also followed its obligations under 1681(i) regarding reasonable reinvestigation. Experian denies that it has caused any damage to Plaintiff, and it denies that Plaintiff is entitled to any of the relief sought in the Complaint. Experian further denies that Plaintiff can support a claim for punitive damages or recovery of attorneys' fees in this action. Experian bases this statement on the facts and information currently available to it. In making this statement, Experian does not waive any defenses it has asserted in response to Plaintiff's Complaint, and because discovery has not yet commenced, Experian respectfully reserves the right to supplement its summary if necessary as this case and the facts develop.

Defendant Equifax: Subject to the Defendants' Joint Motion to Dismiss, Equifax denies that it has violated the FCRA, FDCPA, or TCPA. Equifax states that at all relevant times herein, Equifax maintained reasonable procedures to assure the maximum possible accuracy in its credit reporting concerning Plaintiff in accordance with the FCRA. Equifax has complied with the FCRA and any other applicable laws in its handling of Plaintiff's credit file, including responding to any disputes

1 Plaintiff submitted to Equifax. Equifax denies that it is liable to Plaintiff, denies that Plaintiff has
 2 been damaged, and denies that it proximately caused Plaintiff to suffer any damages.

3 **Defendant ECMC:** Subject to the Defendants' Joint Motion to Dismiss, ECMC denies that it
 4 has violated the FCRA, FDCPA, or TPCA as alleged, or that it is responsible for any act or omission
 5 that would make the Fed. R. Civ. P. 9(b) pleading standard relevant. ECMC has fully performed its
 6 duties under the FCRA and FDCPA. ECMC has taken all appropriate action regarding Plaintiff's
 7 claims, including thoroughly investigating Plaintiff's disputes and deleting or blocking any erroneous,
 8 inaccurate, or outdated credit file information. ECMC has not acted willfully, negligently, or in
 9 violation of 15 U.S.C. § 1681s-2(b) or 15 U.S.C. § 1692c, and any alleged damages sustained by
 10 Plaintiff were not the result of ECMC's actions. This statement is based on the information presently
 11 available to ECMC at this early stage in the litigation. ECMC does not have knowledge of facts or
 12 documents in the possession and control of Plaintiff, Equifax, and Experian. By providing this
 13 statement, ECMC does not waive any defenses and reserves the right to amend, supplement, or
 14 change the facts in this statement if and when additional and different, or more accurate information
 15 and/or documents become available and/or additional facts are developed.

16 **2. The Jurisdictional Basis for this Suit.**

17 This Court has original subject matter jurisdiction under 28 U.S.C. § 1331 and U.S.C.
 18 §1681(p), because Plaintiff asserts causes of action that arise under the "Fair Credit Reporting Act"
 19 (FCRA), 15 U.S.C. §§1681 et seq., the "Fair Debt Collection Practices Act" (FDCPA), §§1692 et
 20 seq., the "Telephone Consumer Protection Act" (TCPA), 47 U.S. Code §§ 227 et seq., and Fed. R.
 21 Civ. P. 9(b) et seq which are all federal statutes. Venue in this District is appropriate under 28 U.S.C.
 22 §1391(b)(2) because a substantial part of the events or omissions giving rise to the claims of the
 23 plaintiff occurred within this Court's jurisdiction. Supplemental Jurisdiction of this Court is conferred
 24 by 28 U.S.C. § 1337(a). Additionally, because Defendants conduct business within the state of
 25 California, they are considered residents based on each of their minimum contacts being sufficient to
 26 subject all Defendants to the personal jurisdiction of this Court as conferred by 28 U.S.C. §1331(d),
 27 and §1331(c)(2).

28 **3. Legal Issues.**

29 **Plaintiff:** The key legal issues in this case are centered on alleged violations of the FCRA,
 30 FDCPA, TPCA, and the Fed. R. Civ. P. 9(b). Such violations of the specified statutes consist of
 31 consumer information that was transmitted in the form of credit files by the defendant credit furnisher
 32 (ECMC) to the defendant credit reporting agencies Experian and Equifax ("CRAs") and subsequently
 33 published to third parties. The information being transmitted, published, and republished was false,
 34 inaccurate, erroneous, fraudulently contrived and the defendants did so both negligently, willfully and
 35 with malicious intent.

36 **Defendant Experian:** Defendant Experian defers to its answer in Section 1, "A Brief Factual
 37 and Legal Synopsis of the Case."

38 **Defendant Equifax:** To the extent the Court does not dismiss this case for the reasons
 39 identified in Defendants' Joint Motion to Dismiss, Equifax identifies the following key legal issues:

40 (1) Whether Equifax failed to maintain reasonable procedures to assure the maximum possible
 41 accuracy of consumer reports regarding Plaintiff; (2) Whether any reinvestigation conducted by

1 Equifax violated the FCRA; (3) Whether Plaintiff has met his burden of proving a claim against
 2 Equifax for negligent noncompliance with the FCRA or any other applicable laws; (4) Whether
 3 Plaintiff has met his burden of proving a claim against Equifax for willful noncompliance with the
 4 FCRA; (5) Whether Plaintiff suffered any damages proximately caused by any action or inaction of
 5 Equifax; (6) Whether Plaintiff is entitled to any damages (actual, punitive, statutory, costs, and/or
 6 fees) from Defendant; (7) Whether any damages suffered by Plaintiff were caused in whole or in part
 7 by a third party, an intervening or superseding cause, and/or the actions of Plaintiff himself; and (8)
 8 Whether Plaintiff failed to mitigate his alleged damages.

9
 10 **Defendant ECMC:** Subject to the Defendants' Joint Motion to Dismiss, ECMC denies that it
 11 has violated the FCRA, FDCPA, or TCPA as alleged, or that it is responsible for any act or omission
 12 that would make the Fed. R. Civ. P. 9(b) pleading standard relevant. ECMC has fully performed its
 13 duties under the FCRA and FDCPA. ECMC has taken all appropriate action regarding Plaintiff's
 14 claims, including thoroughly investigating Plaintiff's disputes and deleting or blocking any erroneous,
 15 inaccurate, or outdated credit file information. ECMC has not acted willfully, negligently, or in
 16 violation of 15 U.S.C. § 1681s-2(b) or 15 U.S.C. § 1692c, and any alleged damages sustained by
 17 Plaintiff were not the result of ECMC's actions. By providing this statement, ECMC does not waive
 18 any defenses and reserves the right to amend, supplement, or change the facts in this statement if and
 19 when additional and different, or more accurate information and/or documents become available
 20 and/or additional facts are developed.

21 **4. Damages.**

22 The realistic range of damages consist of damages as enumerated within Plaintiff's FAC. (See
 23 ECF. #13, at *22-23). If this case does not settle and proceeds to trial, and if the jury finds in
 24 Plaintiff's favor an award of punitive damages, such an amount cannot be realistically determined at
 25 this point but will be assumed to adhere to a proportionate ratio that is relative and reasonable to/with
 26 other similar cases based on the same or similar violations under the requisite statutes that allow for
 27 damages as stated herein. However, calculable damages for violations under the respective statutes in
 28 the form of compensatory damages, pain and suffering, attorney fees if applicable, and statutory
 damages may range between \$175,000 and exceeding \$250,000 based on the quantitative number of
 violations as discovered for the TCPA which allows for treble damages if the defendants actions are
 deemed *willful*. (47 U.S. Code § 227(b)(3)(C)).

29 **5. Parties and Evidence.**

30 **A. The Parties**

31 **Plaintiff:** Plaintiff's correct name is Sean Owens.

32 **Defendant Equifax:** Equifax's correct name is Equifax Information Services, LLC

33 **Defendant Experian:** Experian's correct name is Experian Information Solutions, Inc.

34 **Defendant ECMC:** ECMC's correct name is Educational Credit Management
 35 Corporation.

B. Evidence

Plaintiff: Evidence for the plaintiff will be based on consumer credit reports, written correspondence between the parties obtained prior to this civil suit, documentation acquired during discovery, and other related information.

Defendant Equifax: Should Defendants' Joint Motion to Dismiss not be granted, Equifax anticipates requesting written and paper discovery from Plaintiff, including documents relating to any credit denials or other documents/authorizations to obtain all evidence concerning damages alleged, dispute-related documents, or any other documents Plaintiff possesses in support of his claim. Equifax also anticipates conducting full discovery on the allegations in Plaintiff's Complaint, any communications between Plaintiff and any creditors (potential or current) concerning the disputed tradelines. Equifax anticipates conducting the deposition of Plaintiff, any necessary third-party discovery, including any necessary third-party depositions and third-party paper discovery, individuals identified in Plaintiff's initial disclosures, and/or other individuals with knowledge related to the claims and defenses in this matter that will be identified in discovery.

Defendant Experian: Should Defendants' Joint Motion to Dismiss not be granted, Experian anticipates participating in discovery regarding Plaintiff's claims and Defendants' defenses. In addition to anticipating written discovery with the Plaintiff, Experian anticipates taking the deposition of Plaintiff and any other witness identified by any party in this action, or any other individuals or entities identified through discovery may possess information relative to Plaintiffs claims and alleged damages or Defendants' defenses. Experian's evidence will be based on the information and documents obtained in discovery.

Defendant ECMC: Should Defendants' Joint Motion to Dismiss not be granted, ECMC anticipates taking discovery regarding Plaintiff's claims and Defendants' defenses, including deposing Plaintiff and any other witness identified by any party in this action, or any other individuals or entities identified through discovery that may possess information relative to Plaintiffs claims and alleged damages or Defendants' defenses. ECMC's evidence will be based on the information and documents obtained in discovery.

C. Witnesses

Plaintiff: There is the likelihood that Plaintiff may obtain witness testimony or statements from congressional members and/or written testimony from the Consumer Financial Protection Bureau (CFPB). Such members or representatives have not been identified yet.

Defendant Equifax: A designated representative of Equifax:

- Any entity with whom Plaintiff alleges to have applied for credit, employment, or insurance. These individuals may have knowledge of the facts at issue in this case regarding account(s) and/or any adverse actions. Name(s) and address(es) presently unknown;
- Any other party to this lawsuit;
- Any witness identified by any other party to this lawsuit.

Defendant Experian: Experian anticipates designating an appropriate representative or

1 representatives to testify as a witness on Experian's behalf. Experian's witness (or potential
2 witnesses) has not been identified at this time. Experian will keep initial disclosures updated to
account for any potential witness it plans to call at trial.

3 **Defendant** ECMC: ECMC anticipates designating the appropriate ECMC individual or
4 individuals to testify as a witness on ECMC's behalf. Such individual(s) have not been identified yet.
ECMC further anticipates witness testimony from Plaintiff and from any other witness identified by
5 any other party.

6 **6. Insurance.**

7 **Defendant Equifax:** Equifax is self-insured in this matter.

8 **Defendant Experian:** Not applicable.

9 **Defendant ECMC:** Not applicable.

10 **7. Manual for Complex Litigation.**

11 This case does not or will not require a manual for complex litigation.

12 **8. Motions.**

13 **Plaintiff:** Plaintiff does not anticipate adding any more parties or claims. Plaintiff retains the
right to file motions that are typically anticipated during the pendency of this case, and the plaintiff
will be allowed to amend pleadings with leave of the court as per Fed. R. Civ. P. 15(a).

14 **Defendant Equifax:** Equifax reserves the right to file motions that are typically anticipated
during the pendency of this case, including, but not limited to, dispositive motions, discovery motions
(if necessary), and pretrial motions in limine.

15 **Defendant Experian:** Experian reserves the right to file motions that are typically anticipated
during the pendency of this case, including, but not limited to, dispositive motions, discovery motions
(if necessary), and pretrial motions in limine.

16 **Defendant ECMC:** ECMC reserves the right to file motions that are typically anticipated
during the pendency of this case, including, but not limited to, dispositive motions, discovery motions
(if necessary), and pretrial motions in limine.

17 **9. Dispositive Motions.**

18 **Plaintiff –** Plaintiff retains the right to file dispositive motions. If the plaintiff files a Rule 56
summary judgment motion, the claims brought forth will be based on the same claims presented in
the operative First Amended Complaint. (See ECF. #13, at *1, 11-22).

19 **Defendant Equifax:** Equifax will be able to show that it is not liable, and that Plaintiff is not
entitled to relief through pretrial motion practice and therefore plans to move for summary judgment
following discovery.

1 **Defendant Experian:** Defendants filed a Joint Motion to Dismiss which is pending before
2 the Court. ECMC reserves the right to file additional dispositive motions pending the resolution of
3 the current Joint Motion to Dismiss.

4 **Defendant ECMC:** Defendants filed a Joint Motion to Dismiss which is pending before the
5 Court. ECMC reserves the right to file additional dispositive motions pending the resolution of the
6 current Joint Motion to Dismiss.

7 **10. Status of Discovery.**

8 This joint conference report constitutes the initial phase of discovery for this civil case. The
9 parties have collectively discussed via live telecommunications the individual elements pertained
10 herein. Currently there are no disputes related to discovery between Plaintiff and Defendants.
11 However, it may be anticipated that disputes may arise during the pendency of discovery related to
12 the exchange of documents from the defendants that may be deemed *protected* or *confidential*.

13 **11. Discovery Plan.**

14 **A. Should Any Changes in the Disclosures Under Federal Rule of Civil Procedure
15 26(A) Be Made?**

16 The parties agree that no changes should be made in the disclosures required under Fed.
17 R. Civ. P. 26(A) apart from the default deadline. The parties agree that the deadline to exchange
18 initial disclosures will be December 14, 2022. However, Plaintiff will file his initial disclosures by
19 December 2, 2022.

20 **B. Subjects on Which Discovery May Be Needed**

21 The parties anticipate taking discovery regarding Plaintiff's claims and Defendants
22 defenses. Pursuant to the scheduling timeframe provided by the Court, the parties propose different
23 discovery deadlines. Plaintiff proposes a discovery deadline of May 31, 2023; Defendants jointly
24 propose a discovery deadline of September 15, 2023. The parties do not believe discovery should be
25 limited or conducted in phases.

26 **C. Any issues relating to disclosure or discovery of electronically stored
27 information ("ESI"), including the form or forms in which it should be produced (whether
28 native or some other reasonably usable format) as well as any methodologies for identifying or
culling the relevant and discoverable ESI.**

29 The parties are unaware of any issues relating to the discovery of ESI and have agreed to
30 make initial disclosures and subsequent production(s), where applicable, in hard copy or
31 electronically in .pdf format. The parties do not anticipate any ESI preservation issues. Based on the
32 nature of this case, the parties believe that producing ESI in a reasonably usable format (e.g., hard
33 copy or .pdf) is appropriate and proportional to the needs of the case. Once the parties have had the
34 opportunity to review such documents, they may confer regarding any additional exchange or
35 production that the parties believe is necessary.

36 **D. Any agreements or disputes relating to asserting claims of privilege or
37 preserving discoverable information, including electronically stored information and any
38 agreements reached under Federal Rule of Evidence 502 (such as the potential need for a**

1 protective order and any procedures to which the parties might agree for handling inadvertent
2 production of privileged information and other privilege waiver issues). A party asserting that
3 any information is confidential should immediately apply to the court for entry of a protective
4 order. Unless a request is made for modification, the court will use the form found on the
Eastern District website.

5 The parties agree that there may be a need for discovery in this case to be governed by a
6 protective order. If the parties agree concerning the need for and scope and form of such a protective
7 order, their counsel will confer and then submit a jointly proposed protective order to the Court at
such time. Such jointly proposed protective orders must include, in the first paragraph, a concise but
8 sufficiently specific recitation of the particular facts in this case that would provide the court with an
adequate basis upon which to make the required finding of good cause pursuant to Fed. R. Civ. P.
9 26(c). If the parties disagree concerning the need for, and/or the scope or form of a protective order,
the party or parties seeking such an order shall file an appropriate motion and supporting
memorandum.

10 **E. Whether any other orders should be entered by the court pursuant to Federal
Rule of Civil Procedure 26(c) or 16(b), (c).**

11 The parties do not believe that any other orders are required under Rules 16 or 26.
12 However, as stated above, the parties anticipate submitting a proposed agreed protective order.

13 **12. Discovery Cutoff.**

14 The parties propose different discovery deadlines. Plaintiff proposes a discovery deadline of
May 31, 2023; Defendants jointly propose a discovery deadline of September 15, 2023.

15 **13. Expert Discovery -** Proposed dates for initial and rebuttal expert witness disclosures and
expert discovery cutoff under Federal Rule of Civil Procedure 26(a)(2).

16 **14. Settlement Conference and Alternative Dispute Resolution (“ADR”)**

17 No settlement discussions have occurred between the parties as of the date of filing this joint
18 report. It is anticipated that all parties will engage in settlement discussions, whether with a third
19 party or by utilizing this Court’s ADR process. The defendants propose a Court Mediation Panel as
20 their only preference. However, the plaintiff’s first preference for mediation is a Court Mediation
21 Panel, and private mediation as a second preference to avoid time/scheduling conflicts and to
expedite this case accordingly.

22 **15. Trial Estimate.**

23 The parties estimate that trial will take 2-3 days. Plaintiff has requested a trial by jury. The
24 number of witnesses that Plaintiff may call upon at trial is undetermined at this moment.

25 **16. Trial Counsel.**

26 **Plaintiff:** The plaintiff will retain counsel in advance if there is a trial.

27 **Defendant Equifax:** Equifax currently anticipates that Jennifer Brooks will serve as lead trial
28 counsel.

1 **Defendant Experian:** In the event that the Defendants' Joint Motion to Dismiss is not
2 granted and this case proceeds to trial, Kelly Albright will appear on behalf of Experian. Additional
3 counsel may also appear on behalf of Experian, and appearances with the Court will be filed
accordingly.

4 **Defendant ECMC:** Benjamin A. West will appear on behalf of ECMC. Additional counsel
5 may appear on behalf of ECMC in the event that the Defendants' Joint Motion to Dismiss is not
granted.

6 **17. Magistrate Judge.**

7 Excluding matters already established by this Court that the Magistrate is authorized to hear
8 (i.e., Discovery), the parties do not consent to having this case tried before a Magistrate Judge for
9 trial. If, for the sake of proceedings being efficiently administered to stay on target according to the
scheduling order and in the best interest of this Court's docket, the parties may reconsider and
mutually agree to have this case tried before the assigned Magistrate.

10 **18. Independent Expert or Master.**

11 The parties do not anticipate the need for an independent arbiter or master.

13 **19. Initial Mandatory Disclosures Required by Rule 26(a)(1).**

14 Defendants agreed to file their initial disclosures by December 8, 2023.

15 **20. Worksheet.**

16 See Worksheet attached hereto as Exhibit 1, to which the parties have agreed.

17 Respectfully submitted,

19 /s/ Sean Owens

Dated: December 01, 2022

20 Sean Owens

Plaintiff in Pro Per

21 /s/ Kelly Christine Albright

Dated: December 01, 2022

22 Kelly Christine Albright

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Lead Attorney – Experian

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8 *Lead Attorney* – Equifax

Dated: December 01, 2022

6 /s/ Benjamin A. West
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11 214-545-3472
12 bwest@fbtlaw.com
13 *Lead Attorney* – ECMC

Dated: December 01, 2022

CERTIFICATE OF SERVICE

14 I hereby certify that on December 1, 2022, the foregoing document was filed with the Clerk
15 of the Court and served upon the defendants. Such filing will electronically transmit copies of the
16 foregoing document to all Defendants and Parties registered and using the Pacer CM/ECF system.

17
18 /s/ Sean Owens
19 Sean Owens

Dated: December 1, 2022